

1 RUSSELL D. GREER  
2 CHAPTER 13 STANDING TRUSTEE  
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6 UNITED STATES BANKRUPTCY COURT  
7 EASTERN DISTRICT OF CALIFORNIA

8 In re: ) Case No.: 18-21661  
9 ) D.C. No.: CLH-3  
10 GERARDO YANEZ LARA )  
11 NORMA LYDIA CAMARENA ) CHAPTER 13 PROCEEDING  
12 Debtor(s). ) DATE: OCTOBER 2, 2108  
13 ) TIME: 10:00 AM  
14 ) DEPT.: D

15 CHAPTER 13 STANDING TRUSTEE'S OPPOSITION TO DEBTORS'  
16 MOTION TO CONFIRM SECOND AMENDED CHAPTER 13 PLAN

17 RUSSELL D. GREER, Chapter 13 Standing Trustee in the above referenced matter, opposes  
18 Debtors' Motion to Confirm Second Amended Chapter 13 plan on the following grounds:

19 I.  
20 BASIS OF OPPOSITION

21 1. Trustee has requested copies of Debtors' 2017 Federal and State Tax Returns, as well as  
22 Debtors' 2017 Corporate Tax Returns. Until Trustee is able to review those documents, Trustee is  
23 unable to determine whether Debtors' Chapter 13 Plan is feasible. [11 U.S.C. §1325(a)(6)]

24 2. The Debtors' plan proposes the following monthly payments to secured creditors:

- 25 a) Franklin Credit Management, Class 2, \$4,041.11 per month, and  
26 b) Internal Revenue Service, Class 2, \$521.70 per month.

27 These monthly payments total \$4,562.81 per month, without Trustee compensation and expense, and  
28 with Trustee compensation and expense, total \$5,069.79 per month. Debtors' plan payment in months  
1 and 2 is only \$2,600.00 per month. Accordingly, Debtors' Plan is not feasible.

[11 U.S.C. §1325(a)(6)]

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1 II.

2 **POINTS AND AUTHORITIES**

3 11 U.S.C. §1322(a) provides that a plan shall provide for certain payments to creditors and for  
4 payment of claims within specified classes. Pursuant to 11 U.S.C. §1325(a)(1) the Court shall confirm  
5 a plan if the plan complies with the provisions of Chapter 13 and with other applicable provisions of  
6 this title.

7 11 U.S.C. §1325(a) provides that the Court shall confirm a plan if certain criteria set forth in  
8 §1325(a) is met.

9 The debtors carry the burden of proving, by a preponderance of the evidence, that the plan  
10 complies with the statutory requirements of confirmation. In re Arnold and Baker Farms, 177 B.R.  
11 648, 654 (9<sup>th</sup> Cir. BAP 1994), In re Warren, 89 B.R. 87, 93 (9<sup>th</sup> Cir. BAP 1988), In re Wolff, 22 B.R.  
12 510, 512 (9<sup>th</sup> Cir. 1982).

13 **WHEREFORE**, the Trustee requests that the court deny the Motion to Confirm Second  
14 Amended Chapter 13 Plan.

15 Respectfully submitted,

16 Dated: 09/10/2018

17 /S/ LORRAINE W. CROZIER  
18 LORRAINE W. CROZIER,  
19 Attorney for Russell D. Greer,  
20 Chapter 13 Standing Trustee  
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